

THE STANDARD FOR AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION IN TAX MATTERS (“the Standard”)

The Standard provides for jurisdictions to obtain information from their financial institutions and to automatically exchange that information on an annual basis with other jurisdictions. It is important to note that the Standard applies as per residence not citizenship.

DEFINITIONS

“Controlling Peron” – means any natural person who exercises control over a legal entity. In the case of a trust, such term means the settlor trustee, protector, beneficiary or classes of beneficiaries and any other natural person exercising ultimate effective control over the trust.

“Excluded account” – means:

- a. retirement or pension fund/s which satisfies specified criteria,
- b. life insurance contract/s which meets specified criteria,
- c. account/s held solely by an estate,
- d. account/s established for specific purposes such as the execution of a court judgement or the sale or lease of real estate,
- e. tax-favoured account/s,
- f. account/s where withdrawals are conditional on meeting specified criteria related to the purpose of the investment or saving account/s (ie. educational or medical benefits) or penalties apply to withdrawals made before such criteria are met,
- g. account/s where annual contributions are limited to USD 50 000 or less,
- h. any other account/s which poses a low tax evasion risk.

“High Value Account” - means a pre-existing individual account with an aggregate balance or value that exceeds USD 1 000 000

“Lower Value Account” – means a pre-existing individual account with an aggregate balance or value that does not exceed USD 1 000 000

“Participating Jurisdiction Financial Institution” – means (a) any Financial Institution that is resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside

THE STANDARD FOR AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION IN TAX MATTERS (“the Standard”)

such Participating Jurisdiction, and (b) any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.

“**Related Entity**” of another Entity is where either Entity controls the other Entity, or the two Entities are under common control. For this purpose control includes direct or indirect ownership of more than 50% of the vote and value of an Entity.

“**Reportable Person**” – any individual or entity that is a resident of a Reportable Jurisdiction under the tax laws of such jurisdiction. An entity that has no tax residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.

KEY FEATURES

1. **Financial account information to be exchanged includes but is not limited to the following:**
 - a. All types of investment income, including interest, dividends, income from specified insurance contracts and other income generated with respect to assets held in the account or payments made with respect to the account
 - b. Account balances
 - c. Sales proceeds from financial assets

Furthermore:

- a. In the case of all Reportable Accounts:
 - i. the name, address, TIN (s), date and place of birth of each person that is an account holder, and in the case of a legal entity that has one or more controlling persons that are Reportable Persons the name, address and TIN (s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;
 - ii. the account number (or functional equivalent);
 - iii. the name and identifying number (if any) of the Reporting Financial Institution
 - iv. the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;

THE STANDARD FOR AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION IN TAX MATTERS (“the Standard”)

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- v. In the case of a Depository account:
 - The total (gross) amount of interest paid or credited to the account during the calendar year or other appropriate reporting period
 - vi. In the case of a Depository account:
 - The total (gross) amount of interest paid or credited to the account during the calendar year or other appropriate reporting period
 - vii. In the case of any Custodial Account:
 - The total (gross) amount of interest, the total (gross) amount of dividends, and the total (gross) amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - The total (gross) proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee or otherwise as an agent for the account holder
 - viii. In the case of any other account not detailed above:
 - The total (gross) amount paid or credited to the account holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the account holder during the calendar year or other appropriate reporting period.
- b. For the purposes of the exchange of the above information, the currency of each account shall be identified and the amount and characterisation of payments with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the jurisdiction exchanging information.
2. **Financial institutions that must report:**
- a. Banks
 - b. Custodians

THE STANDARD FOR AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION IN TAX MATTERS (“the Standard”)

- c. Brokers
 - d. Certain collective investments vehicles, and
 - e. Certain insurance companies
3. **Types of accounts and taxpayers covered (“Reportable accounts”):**
- a. Accounts held by individuals and entities, including trusts and foundations.
4. **Accounts not required to be reviewed, identified or reported:**
- a. A pre-existing individual account that is a Cash Value Insurance Contract or an Annuity Contract is not required to be reviewed, identified or reported, provided the Reporting Financial Institution is effectively prevented by law from selling such contracts to residents of a Reportable Jurisdiction.
 - b. Unless the Reporting Financial Institution elects otherwise, either with respect to all pre-existing entity accounts or, separately, with respect to any clearly identified group of such accounts, a pre-existing entity account with an aggregate account balance or value that does not exceed USD 250 000 is not required to be reviewed, identified or reported as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year. *The threshold does not apply to new accounts.
5. **Applicable due diligence review procedures**
- a. **Lower Value Accounts.** If the Reporting Financial Institution has in its records a current residence address for the individual account holder based on documentary evidence, the said Institution may treat the individual as a resident for tax purposes of the jurisdiction in which the address is located for the purposes of determining whether such individual is a Reportable Person. If the Reporting Financial Institution does not rely on such documentary evidence then it must conduct an electronic review of searchable data maintained by the Institution for any of the following:
 - i. Identification of the account holder as a resident of the Reportable Jurisdiction
 - ii. Current mailing or residential address in a Reportable Jurisdiction
 - iii. One or more telephone numbers in a Reportable Jurisdiction and no telephone numbers in the jurisdiction of the Financial Institution

THE STANDARD FOR AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION IN TAX MATTERS (“the Standard”)

- iv. Standing instructions (other than with respect to a Depository account) to transfer funds to an account maintained in a Reportable Jurisdiction
- v. Currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction;
- vi. A “hold-mail” instruction or “in-case-of” address in a Reportable Jurisdiction if the Reporting Financial Institution does not have any other address on file for the account holder.

*Enhanced due diligence review procedures apply to High Value Accounts

6. **Determining a Reportable Entity.** A Reporting Financial Institution may rely on self-certification provided by the entity certifying that it has no residence for tax purposes and may rely on the address of the principal office of the entity to determine the residence of the account holder.
7. **Account balance aggregation and currency rules for individuals and legal entities.** For the purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Financial Institution is required to aggregate all financial accounts maintained by the Institution or by a related entity but only to the extent that the Institution’s computerised systems link the financial accounts by reference to a data element such as a client number or TIN, and allow the account balances or values to be aggregated.
8. **Jurisdictions undertaking first exchanges by 2017**
 Anguila, Argentina, Belgium, Bermuda, the British Virgin Islands, Bulgaria, the Cayman Islands, Columbia, Croatia, Curacao, Cyprus, the Czech Republic, Denmark, Dominica, Estonia, the Faroe Islands, Finland, France, Greece, Gibraltar, Greenland, Guernsey, Hungary, Iceland, India, Ireland, the Isle of Man, Italy , Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, Mauritius, Mexico, Monserrat, the Netherlands, Niue, Norway, Poland, Portugal, Romania, San Marino, the Seychelles, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Trinidad and Tobago, the Turks and Caicos Islands and the United Kingdom.

THE STANDARD FOR AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION IN TAX MATTERS (“the Standard”)

9. Jurisdictions undertaking first exchanges by 2018

Albania, Andorra, Antigua and Barbuda, Aruba, Australia, Austria, The Bahamas, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Costa Rica, Ghana, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Marshall Islands, Macao (China), Malaysia, Monaco, New Zealand, Qatar, Russia, Saint Kitts and Nevis, Samoa, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Turkey, United Arab Emirates, Uruguay

The above is intended to provide a brief guide only. It is essential that appropriate professional advice is obtained.